Shire of CARNARVON
CATCH A taste OF THE GREAT LIFE

GUIDE TO CARETAKER PERIOD REQUIREMENTS

under the Local Government Act 1995

OCTOBER 2026

This Guide is practical guidance for Council Members, Committee Members, candidates and employees. It does not replace the Local Government Act 1995, associated regulations, the Code of Conduct or legal advice. The legislation prevails if there is any inconsistency.

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PURPOSE

This Guide explains the statutory caretaker framework and provides practical direction for the Shire of Carnarvon when planning, reporting, deciding and communicating during a caretaker period. It is intended to support consistent, impartial and well-documented decision-making.

EXECUTIVE SUMMARY

The Shire of Carnarvon's 'Guide to Caretaker Period Requirements' provides practical guidance for Council Members, Committee Members, candidates and employees on the statutory and administrative requirements applying during a local government caretaker period.

The Guide has been developed to align the Shire's arrangements with the uniform caretaker provisions introduced under the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*. It explains when the caretaker period applies, how the Shire may continue its ordinary operations and the restrictions on undertaking, or deciding to undertake, a significant act during that period.

The Guide outlines:

- the elections to which the statutory caretaker period applies;
- the commencement and conclusion of the caretaker period;
- significant acts prohibited during the caretaker period;
- the limited statutory circumstances in which a significant act may proceed;
- the treatment of Council and committee business;
- the use of Shire resources and information;
- expectations concerning publications, media, events, functions and public consultation;
- the roles of Council, the Commissioner or President, the Chief Executive Officer, Governance and Shire employees; and
- the assessment, escalation and recordkeeping processes to be followed.

The Guide also includes practical checklists to support early identification of potential caretaker issues and consistent assessment of proposed decisions and actions.

The Guide does not replace the *Local Government Act 1995*, associated regulations, Code of Conduct, or legal advice. Where any inconsistency arises, the legislation prevails. It is intended to the Shire's primary administrative guidance for caretaker periods.

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1. INTRODUCTION

The *Local Government Act 1995* establishes a uniform statutory caretaker period for relevant local government elections. The framework limits specified decisions and actions while an election is underway, particularly where they could bind an incoming Council to a significant course of action.

Like caretaker conventions in State and Federal Government, the provisions are intended to ensure that Significant (acts) decisions binding a future Council are not made while electors are choosing that Council.

The Shire continues to operate during caretaker. Ordinary administration, service delivery, routine statutory functions and lawful Council and committee business may continue. The primary legal restriction is that the Shire must not undertake, or decide to undertake, a significant act unless an exception in section 3.73 applies.

Key principle
The legal test is not whether a matter is controversial or described as a major policy decision. The first question is whether the proposed decision or action is a significant act under section 3.73 of the Act or regulation 3A of the Local Government (Functions and General) Regulations 1996.

1.1 DEFINITIONS USED IN THIS GUIDE

Term	Meaning
Act	the Local Government Act 1995.
Candidate	a person who has nominated as a candidate for a relevant election, including a serving Council Member seeking election or re-election.
Caretaker period	the period described in section 1.4A of the Act.
Council Member	includes the President and elected members of individual town wards. *NB: includes the Commissioner while exercising the powers and duties of Council and the President.*
Departmental CEO	the chief executive officer of the Department of Local Government principally assisting the Minister to administer the Act. Currently referred to as the Director General.
Electoral purpose	the purpose of persuading electors to vote in a particular way at an election, referendum or other poll.
Relevant election	an election described in section 1.4A of the Act.
Significant act	an act described in section 3.73 of the Act or prescribed by regulation 3A.
Local public notice	notice given under section 1.7 of the Act and regulation 3A of the *Local Government (Administration) Regulations 1996*.

2. WHEN THE CARETAKER PERIOD APPLIES

A caretaker period applies to a relevant election under section 1.4A of the Act. A relevant election is:

- an ordinary election;
- an inaugural election;
- an election under section 4.11, 4.12, 4.13 or 4.14 (including an election to fill all offices after the offices have been declared vacant or a commissioner has been appointed, and an election after a council is dismissed); and
- a fresh election under section 4.15 after one of the above has been declared invalid.

The caretaker period does not apply to an extraordinary election under section 4.8 (an election to fill a vacancy under section 2.32, or an election required by section 4.57 or 4.58). This is regardless of how many offices are vacant. If an extraordinary election is held on the same day as an ordinary election, the caretaker period applies because of the ordinary election.

The period begins at the close of nominations (4.00pm on the 44th day before election day). It ends on the day after the returning officer declares the result of the election under section 4.77. If section 4.57(1) applies, it ends on the day after the close of nominations. If section 4.58(1) applies, it ends on the day after the death of a candidate.

ELECTIONS
Any Shire of Carnarvon election that follows the declaration of vacancies and appointment of a Commissioner and is held under section 4.13 of the Act, is a relevant election. The caretaker period applies. The caretaker period begins at 4.00pm on the 44th day before election day and ends on the day after the returning officer declares the result.

2.1 BEFORE CARETAKER BEGINS

1. Identify contracts, tenders, land matters, local laws, planning instruments and employment matters likely to need action before or after caretaker.
2. Identify contract renewals, extensions or options worth more than $250,000 that fall due during caretaker.
3. Invite tenders worth more than $250,000 before caretaker, or obtain a Council decision before caretaker to invite them.
4. Schedule necessary Council decisions before caretaker where lawful and practicable. Make sure resolutions are specific and that any required funding is confirmed.
5. Identify any action that will be carried out during caretaker, and whether regulation 3B notice is needed.
6. Brief Council Members, Committee Members and relevant employees before caretaker. Give candidates consistent information after nominations close.
7. Review planned communications, consultation, civic events and publications.
8. Establish a clear referral pathway through your Executive Manager, Governance and the CEO.

3. DECISION-MAKING DURING CARETAKER

Every proposed Council, committee or delegated decision should be screened early. Responsible officers must not wait until an agenda report, tender recommendation or agreement is ready for execution before considering the caretaker restrictions.

3.1 ASSESSMENT QUESTIONS

- Is a caretaker period active for a relevant election?
- Would the proposed decision or action be a significant act under section 3.73 or regulation 3A?
- Was the decision to undertake the significant act made before caretaker?
- Does a statutory exception apply?
- Are public notice, Departmental notice or authorisation requirements triggered?
- If the matter is not prohibited, should it nevertheless be deferred for determination by the incoming Council?
- Has the assessment and supporting advice been recorded?

3.2 NON-PROHIBITED BUT CONSEQUENTIAL MATTERS

A matter that is not a significant act is not prohibited merely because it arises during caretaker. The CEO may nevertheless recommend deferral where the matter can reasonably wait, would bind the incoming Council to a substantial course of action, is particularly contentious in the election context, or would more appropriately be determined by the incoming Council.

When deciding whether to proceed, consider the purpose of the caretaker provisions: decisions that would commit a future Council to ongoing obligations should generally be left to that Council. For significant or sensitive matters coming up to a caretaker period, the CEO should engage with Council early. Deferral is a recommendation. Where the matter is before Council, Council decides whether to defer it.

4. SIGNIFICANT ACTS

Section 3.73 prohibits both undertaking a significant act and deciding to undertake that act during caretaker. This includes decisions made by Council and decisions made under delegated authority.

Significant act	Practical description	Example indicator
Local law	Making, amending or repealing a local law.	A proposal to formally make a new local law.
CEO or senior employee contract	Entering into, renewing or terminating the employment contract of the CEO or a senior employee.	Appointment, renewal or termination documentation.
Major land transaction	Entering into a major land transaction.	Council approval or contract execution for a major land proposal.
Preparatory land transaction	Entering into a land transaction preparatory to a major land transaction.	Acquiring adjoining land needed for a major proposal.
Major trading undertaking	Commencing a major trading undertaking.	A decision or action that starts the undertaking.
Major contract or arrangement	Entering into a contract, agreement or arrangement where the Shire will, or expects to, provide or receive consideration of more than $250,000. This includes acquiring or disposing of property worth more than $250,000.	Tender award, grant or funding agreement (including funding received), partnership arrangement, contract extension or renewal, property sale or purchase.
Inviting tenders	Inviting tenders, or buying through a tender-exempt method (including the WALGA Preferred Supplier Program), with an expected consideration of more than $250,000. This applies whether the decision is made by Council or by the CEO under delegation.	Approving or publishing a tender invitation, or issuing a request for quotation through a preferred supplier arrangement.
Decision to undertake an act	Deciding to do any of the significant acts listed above.	Council or a delegate authorises the act even though execution will occur later.
Prescribed acts	Acts prescribed by regulation 3A.	Regional bodies, local planning instruments and panels of pre-qualified suppliers.

Threshold warning
Regulation 3A(3) prevents a contract or arrangement being split into smaller agreements to avoid the $250,000 threshold. The value includes the full term, any options to extend, and money both paid and received. A variation or extension that takes a contract above $250,000 should be referred to Governance.
For disposals of property, the value decides whether the caretaker provisions apply, not the disposal method. A disposal that is exempt from section 3.58 under regulation 30 may still be a significant act if it is worth more than $250,000.
Get Governance advice where the value is uncertain or close to the threshold.

4.1 PRESCRIBED ACTS UNDER REGULATION 3A

- Establishing, amending the establishment agreement of, winding up or withdrawing from a regional local government.
- Forming, amending the charter of, winding up or withdrawing from a regional subsidiary.
- Making prescribed decisions under the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*, including commencing the preparation, amendment or repeal of a local planning scheme or local planning policy.
- Publicly inviting persons to apply to join a panel of pre-qualified suppliers.
- Any other act prescribed by the current regulations.

Ordinary Council policies are not automatically significant acts merely because they are policies. A local planning policy is treated differently because the regulations prescribe commencement of its adoption, amendment or repeal.

Determining individual development applications is not listed as a significant act. Statutory planning decision-making may therefore continue, but any uncertainty should be referred to Governance.

5. EXCEPTIONS ALLOWING A SIGNIFICANT ACT

A significant act may proceed during caretaker only where an exception in section 3.73 applies. The CEO cannot create an additional exemption through policy or administrative approval.

5.1 DECISION MADE BEFORE CARETAKER

The Shire may carry out a significant act during caretaker if Council decided to do it before the caretaker period began (section 3.73(4)) and the requirements of regulation 3B are met.

How specific the decision must be:

The resolution must be specific enough to authorise that particular significant act. It must also be detailed and certain, as for any resolution authorising an agreement. As a minimum, it should identify:

- the parties;
- the subject matter;
- the value or maximum value; and
- the key terms and any conditions.

A general decision, such as one to seek further funding or to progress a project, is unlikely to be enough. Council should generally avoid broadly pre-authorising a future agreement unless there is a high level of certainty about the amount, the conditions and the key terms. At a minimum, both parties should confirm the key terms in writing and provide that confirmation to Council. Increasing or varying the funding or contract value after the decision may itself be a separate significant act.

Notice required before acting (regulation 3B):

Before the significant act is carried out, the Shire must:

1. give local public notice of its intention to do the act, including:
    - details of the act and the date the Shire intends to do it; and
    - details of Council's decision (meeting, item number and resolution) and the date it was made;
2. publish the notice on the Shire's website for at least 7 days, and give it in at least three other prescribed ways, such as noticeboards at the administration office and library, the Shire's social media and a local newspaper or newsletter; and
3. send a copy of the notice to the Departmental CEO.

Check relevant act, regulations and legislation for minimum waiting period applies. If non is defined, a minimum 7-day period for notice is required prior to execution. However, every notice must be in place, and the copy sent to the Department, before the act is done.

5.2 LEGAL OR CONTRACTUAL NECESSITY

A significant act may proceed where it is necessary to comply with a written law, an order of a court or tribunal, or a contractual obligation under a contract entered into before caretaker. The necessity and supporting record must be clear.

Record the written law, order or contract clause relied on, and why the act cannot wait until after the caretaker period.

5.3 DEPARTMENTAL CEO AUTHORISATION

Under section 3.73(6), the Departmental CEO may authorise the Shire to do a significant act during caretaker if satisfied it is necessary because of an emergency (as defined in section 3.73) or to ensure the

proper operation of the local government. Requests are made through the CEO, supported by Governance advice and, where appropriate, legal advice. Contact the Department early where a potential significant act is identified.

5.4 TENDERS, FUNDING AND DISPOSALS

- Inviting tenders
  inviting tenders worth more than $250,000 cannot happen during caretaker unless the decision to invite them was made before caretaker and the regulation 3B requirements are met.

- Funding before award
  tenders should generally not be awarded until enough funding is confirmed. Awarding subject to funding can create legal, financial and reputational risks. For example, the tender validity period may expire, a supplier may argue a contract has formed, or tenderers may not have known the project depended on funding. Where additional expenditure is needed, Council should consider approving it under section 6.8 of the Act.

- Tender documents
  where an award depends on securing funding or further approval, state this clearly in the request for tender.

- Disposals and trade-ins
  disposals worth $250,000 or less may proceed under section 3.58 or regulation 30, provided no other significant act is involved.

Escalation requirement
Any proposed significant act, or uncertainty about whether an act is significant, must be referred to the CEO before the report, procurement, notice, agreement or decision progresses.

6. COUNCIL AND COMMITTEE MEETINGS

Council and committee meetings may continue during caretaker. Meeting business must be screened to ensure that no recommendation, motion or delegated action would decide or undertake a prohibited significant act.

A committee recommendation may proceed to Council where the resulting decision is lawful during caretaker.

Agenda reports should expressly address caretaker implications where a reasonable issue could arise. Motions, amendments and urgent business must be assessed on the same basis as officer recommendations.

A matter should not be split into procedural stages to avoid the statutory prohibition.
Closed-meeting and confidentiality requirements continue to apply.

Routine receiving, noting and oversight reports may continue where they do not authorise a significant act.

6.1 SUGGESTED REPORT WORDING

Caretaker assessment
The proposed decision has been assessed against sections 1.4A and 3.73 of the Local Government Act 1995 and regulation 3A of the Local Government (Functions and General) Regulations 1996. [State whether the proposal is not a significant act, or identify the statutory exception and supporting requirements.]

6.2 COMMON EXAMPLES

Matter	Significant act?
Adopting, amending or revoking a Council policy (other than a local planning policy)	No
Appointing members to a reference group or committee	No. Deferral may be recommended where positions are for Council Members or nominees are candidates
Community grants, sponsorships and awards of $250,000 or less	No
Accepting a grant or funding agreement worth more than $250,000	**Yes**
Trading in or disposing of a vehicle worth $250,000 or less	No
Awarding a tender worth more than $250,000	**Yes. The decision must be made before caretaker, and regulation 3B notice given before signing**
Inviting tenders worth more than $250,000	**Yes**
Commencing a local planning policy or scheme amendment	**Yes**

7. REPRESENTING THE SHIRE

Council Members may continue to represent the Shire and attend meetings or functions in their official capacity. Official duties must not be used to promote an election campaign or provide an electoral advantage or disadvantage.

7.1 SPEAKING AT EVENTS AND FUNCTIONS

The Commissioner or President remains the principal civic representative and spokesperson in accordance with the Act and Shire protocols.

Official speeches should be factual, impartial and confined to Shire business.

A Council Member who is also a candidate must clearly separate official representation from campaign activity.

Shire employees must not prepare campaign material or provide campaign media support.

7.2 EXTERNAL BODIES

Council Members appointed as Shire representatives to external bodies may continue to attend meetings and perform the representative role, subject to the terms of the appointment and applicable conduct requirements.

8. USE OF SHIRE RESOURCES

Shire resources must not be used for an electoral purpose unless authorised by law. This obligation applies at all times, not only during caretaker.

8.1 RESOURCES INCLUDE

- employee and contractor time;
- premises, meeting rooms and facilities;
- vehicles, equipment and stationery;
- telephones, mobile devices, email accounts and information technology;
- business cards, photographs, logos, templates and branding;
- websites, social-media channels, mailing lists and newsletters; and
- hospitality, reimbursements and services funded or provided by the Shire.

8.2 PRACTICAL CONTROLS

- Do not use a Shire email account, device, vehicle, facility or staff member for campaign activity.
- Do not use official Shire photographs, branding or templates in a way that suggests Shire endorsement.
- Do not ask employees to research, draft or distribute candidate communications.
- Refer any uncertain request to Governance and the CEO before assistance is provided.

9. ACCESS TO INFORMATION AND CANDIDATE ASSISTANCE

Candidates must be treated fairly and consistently in relation to public election information. Candidate status does not create a general entitlement to confidential or non-public Shire information.

Direct election-process enquiries to the Returning Officer where the enquiry falls within that officer's responsibilities.

Provide official candidate information consistently and, where appropriate, to all candidates.

Apply the Act, electoral-roll restrictions, privacy, confidentiality, recordkeeping and Council Member information-access requirements.

Use ordinary customer and records processes for public information requests.

Record material candidate assistance and advice where necessary to demonstrate consistency.

Electoral rolls
Access to and use of electoral-roll information is governed by legislation. Do not provide or use roll information beyond the lawful purpose and process.

10. PUBLICATIONS, MEDIA AND COMMUNICATIONS

Official communications may continue during caretaker but must remain factual, impartial and connected to ordinary Shire business, statutory requirements, emergencies or essential community information.

10.1 CONTENT CHECK

- Is the communication necessary and part of ordinary Shire business?
- Is it factual, balanced and free of election commentary?
- Does it feature or quote a candidate more than is operationally necessary?
- Could timing, imagery or wording reasonably be perceived as providing electoral advantage?
- Does it use Shire branding, channels and resources only for an authorised purpose?
- Has the communication passed the normal approval process?

10.2 CANDIDATE PUBLICATIONS

Candidate material must not imply that it is an official Shire publication. Candidates must not use Shire branding, titles, photographs, facilities or communication channels in a way that creates an impression of Shire endorsement.

10.3 MEDIA REQUESTS

Media requests concerning election issues, candidates or campaign publicity should be referred to the CEO. Routine operational responses may continue through normal processes following an impartiality check.

11. EVENTS, FUNCTIONS AND PUBLIC CONSULTATION

11.1 EXTERNAL EVENTS

Council Members may attend externally hosted events during caretaker. Attendance in an official capacity must remain separate from campaign activity and comply with adopted policies and conduct requirements.

11.2 SHIRE EVENTS AND CIVIC FUNCTIONS

Shire events may continue where approved through normal processes, provided the event is not used for an electoral purpose, official material remains impartial, and participation by Council Members and candidates is managed fairly and consistently.

11.3 PUBLIC CONSULTATION

Mandatory consultation required by legislation may continue. Discretionary consultation should be assessed for necessity, timing, impartiality, caretaker significance and whether it can reasonably be deferred.

Confirm whether commencement of the consultation itself would be a significant act.

Consider whether the consultation could reasonably be perceived as influencing the election.

Consider legal, financial, funding and operational consequences of deferral.

Determine whether consultation outcomes should be reported during caretaker or to the incoming Council.

Document the CEO’s decision to proceed, modify or defer the consultation.

12. ROLES, ESCALATION AND RECORDKEEPING

Role	Responsibility
Council	Complies with the statutory restrictions, determines matters lawfully before it and considers whether consequential non-prohibited matters should be left to the incoming Council.
Commissioner / President	Supports orderly and impartial meeting conduct and official representation of the Shire.
Chief Executive Officer	Implements the framework, establishes administrative controls, determines escalation and obtains external advice or Departmental authorisation where required.
Governance	Maintains guidance and checklists, reviews potential significant acts, coordinates advice and retains central compliance records.
Executive Managers and report authors	Identify caretaker implications early, complete assessments and ensure recommendations do not authorise prohibited decisions or actions.
Employees and contractors	Maintain impartiality, protect Shire resources and records, and escalate uncertain requests.

12.1 RECORDS TO RETAIN

- completed caretaker assessments;
- governance and legal advice;
- decisions to proceed, modify or defer;
- the statutory exception relied upon and supporting evidence;
- local public notices and Departmental notices;
- Departmental authorisations; and
- records of communications, candidate assistance or resource-use issues requiring review.

APPENDIX 1: CARETAKER CHECKLIST

This appendix delivers the "practical checklists" the Executive summary promises.

Step	Check	✓
1	*Is the decision or action listed in section 3.73 or regulation 3A?*	
2	*If it's a contract, agreement, tender or disposal, is the value more than $250,000 (including the full term, extensions and money received)?*	
3	*If it's a significant act, was the decision made by Council before caretaker, and is it specific enough?*	
4	*Is funding confirmed?*	
5	*Has regulation 3B notice been published (website plus three methods) and sent to the Department before acting?*	
6	*If it isn't a significant act, should it still be deferred to the incoming Council?*	
7	*Have Governance and the CEO been consulted, and has the advice been recorded?*	
8	*Is the caretaker assessment included in the report, with the advice attached?*	